

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

In the Matter of )

)

Petition for Declaratory Ruling by )  
the Inmate Calling Services )  
Providers Task Force )

RM-8181

AAD 96-39

DOCKET FILE COPY ORIGINAL

**COMMENTS OF SOUTHWESTERN BELL TELEPHONE COMPANY  
IN SUPPORT OF PETITION FOR PARTIAL RECONSIDERATION OR STAY**

On March 21, 1996, Bell Atlantic, BellSouth, NYNEX, Pacific Bell and Nevada Bell (Petitioners) filed a Petition for Partial Reconsideration or Stay of a Commission Declaratory Ruling released in this docket on February 20, 1996, which directed carriers to treat inmate-only payphones as customer premises equipment (CPE). Petitioners request that the Declaratory Ruling be stayed pending the effective date of the new regulations that must be adopted for all payphones pursuant to Section 276 of the Telecommunications Act of 1996. Petitioners state that a stay is appropriate to avoid requiring exchange carriers to undertake duplicative compliance activities within a short period of time -- first to comply with the Declaratory Ruling for inmate payphones, and later to comply with the rules implementing Section 276 for all payphones.

Southwestern Bell Telephone Company (SWBT) supports Petitioners. Compliance with the Declaratory Ruling in this matter will not be in the public interest. The Telecommunications Act of 1996, at Section 276(b)(1), requires the Federal Communications

046

Commission to prescribe payphone regulations that, inter alia, (1) establish a per-call compensation plan, (2) discontinue the intrastate and interstate “carrier access charge payphone service elements,” (3) prescribe nonstructural safeguards, (4) provide for Bell Operating Company payphone providers the right to negotiate with local providers regarding the carrier of interLATA traffic, and (5) allow all payphone service providers to negotiate with location providers regarding carriers that transport intraLATA calls. Subsection D of Section 276 of the Act specifically includes “the provision of inmate telephone service in correctional institutions” within the definition of “payphone.”

Thus, the Act requires the FCC, as part of the comprehensive payphone rulemaking, to include regulations concerning inmate telephone service. Requiring SWBT and other Local Exchange Carriers (LECs) to implement the terms of the Declaratory Ruling before the Commission has released the rules and regulations required by the Act will force SWBT and other LECs to do on a piece-meal basis what the Act contemplates should be done as part of a unified process.

The Declaratory Ruling requires LECs to “establish whatever Part 64 cost pools are needed to accomplish this reclassification and . . . file revisions to their Cost Allocation Manuals reflecting this reclassification within sixty (60) days prior to the effective date of the change.” In effect, the FCC is requiring that LECs file a revision to their Cost Allocation Manuals on or about July 3, 1996, which is the date sixty days prior to the September 2, 1996, effective date of the reclassification required by the Declaratory Ruling.

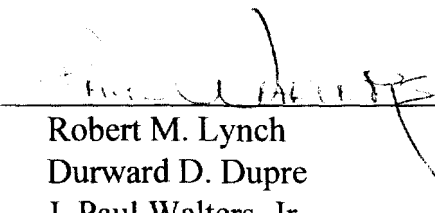
Section 204 of the Telecommunications Act of 1996 states, in part, that the "Commission shall permit any Common Carrier . . . to file Cost Allocation Manuals . . . annually, to the extent such carriers are required to file such manuals." Requiring LECs to file revisions to their Cost Allocation Manuals more frequently than on an annual basis is contrary to the above-quoted provision of the new legislation. The Declaratory Ruling must be revised accordingly to be consistent with the requirements of the legislation regarding annual filings of Cost Allocation Manuals.

For the reasons discussed above, SWBT supports Petitioners herein and requests that the Declaratory Ruling be stayed pending the effective date of the new regulations that must be adopted for all payphones pursuant to Section 276 of the Telecommunications Act of 1996.

Respectfully submitted,

SOUTHWESTERN BELL TELEPHONE COMPANY

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May 13, 1996

CERTIFICATE OF SERVICE

I, Katie M. Turner, hereby certify that the foregoing, "Comments of Southwestern Bell Telephone Company In Support of Petition for Partial Reconsideration On Stay" in RM No.8181 AAD 96-39 has been filed this 13th day of May, 1996 to the Parties of Record.

A handwritten signature in cursive script that reads "Katie M. Turner". The signature is written in dark ink and is positioned above a solid horizontal line.

Katie M. Turner

May 13, 1996

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